1632

PATENT

Case Docket No. CHMC7.001CP1
Date: December 11, 2000
Page 1

12-26-00

In re application of	:	Whitsett, J.
App. No.	:	09/558,576
Filed	:	April 26, 2000
For	:	SURFACTANT PROTEIN D FOR THE PREVENTION AND DIAGNOSIS OF PULMONARY EMPHYSEMA
Examiner	:	Crouch, D.
Art Unit	:	1632

I hereby certify that this correspondence and all marked attachments are being deposited with the United States Postal Service as first class mail in an envelope addressed to: Assistant Commissioner for Patents, Washington, D.C. 20231, on

December 11, 2000
(Date)

Mark J. Kertz, Reg. No. 43,711

ASSISTANT COMMISSIONER FOR PATENTS

WASHINGTON, D.C. 20231

Sir:
Transmitted herewith is an amendment in the above-identified application.

(X) An extension of time to respond for one month is hereby requested.
Time Extension Fee:
(X) one month ($55 small entity)

The fee has been calculated as shown below:

CLAIMS AS FILED

	CLAIMS REMAINING AFTER AMENDMENT		HIGHEST NO. PREVIOUSLY PAID FOR	PRESENT EXTRA	RATE	ADDITIONAL FEE
Total Claims	15	—	28	= 0 ×	$9	= $0
Independent Claims	1	—	11	= 0 ×	$40	= $0
Time Extension Fee						$55
				TOTAL ADDITIONAL FEE FOR THIS AMENDMENT		$55

(X) A small entity status of this application under 37 CFR 1.9 and 1.27 has been established by a verified statement previously submitted.

(X) Return prepaid postcard.

(X) A check in the amount of $55 is enclosed.

(X) Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410. A duplicate copy of this sheet is enclosed.

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CHMC7.001CP1

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant	:	Whitsett, J.	Group Art Unit 1632
Appl. No.	:	09/558576	
Filed	:	April 26, 2000	
For	:	SURFACTANT PROTEIN D FOR THE PREVENTION AND DIAGNOSIS OF PULMONARY EMPHYSEMA	
Examiner	:	Crouch, D.	

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December 11, 2000
(Date)

Daniel E. Altman, Registration No. 34,115

RESPONSE
TO
RESTRICTION REQUIREMENT

Assistant Commissioner for Patents
Washington, D.C. 20231

Dear Sir:

In response to the Restriction Requirement mailed from the United States Patent and Trademark Office on October 10, 2000 (Paper No. 6), please amend the application as follows:

IN THE CLAIMS:

Please cancel Claims 1-3, 7, 9 and 11-24.

Please amend the remaining Claims as follows:

a'

4. (Amended) A method for the prevention and treatment of pulmonary disease comprising: introducing **[mammalian SP-D protein, or vectors expressing the mammalian SP-D protein]**the pharmaceutical composition according to claim 10, into a human in an amount effective to reduce the sumptoms of or prevent pulmonary disease.

a''

6. **(Amended)** The method of Claim 4 wherein said **[SP-D protein]**pharmaceutical composition is administered intratracheally.

Q3

8. **(Amended)** The method of Claim 4 wherein said **[adenoviral said adenoviral vector]** pharmaceutical composition is introduced via aerosolization.

25. **(Amended)** **[A]**The method of Claim 4, **[for the prevention and treatment of pulmonary disease comprising:**

introducing mammalian SP-D protein or vectors expressing the mammalian SP-D protein into a human in an amount effective to reduce the symptoms of or prevent pulmonary disease,] wherein the pulmonary disease is selected from the group consisting of: reactive oxygen-mediated disease, chemically induced lung injury, injury due to oxygen radicals, injury due to ozone, injury due to chemotherapeutic agents, inflammatory and infectious diseases, reperfusion injury, drowning transplantation, and rejection.

Q4

26. **(Amended)** A method for the prevention and treatment of viral disease comprising:

[introducing mammalian SP-D protein, or vectors expressing the mammalian SP-D protein]the pharmaceutical composition according to claim 10, into a human in an amount effective to reduce the number of viruses or symptoms of the viral disease.

Q5

28. **(Amended)** A method of inhibition of metalloproteinase activity and reactive oxygen species in the lungs, comprising, administering **[SP-D]**the pharmaceutical composition according to claim 10, to the lungs in an amount effective to inhibit metalloproteinase activity and reactive oxygen species.

Please add the following claims:

Q6

29. The pharmaceutical composition of Claim 10 further comprising IL-4.

30. The pharmaceutical composition of Claim 10 further comprising SP-A.

31. The pharmaceutical composition of Claim 10 further comprising SP-B.

32. The pharmaceutical composition of Claim 10 further comprising SP-C.

33. The pharmaceutical composition of Claim 10 further comprising IL-4, SP-A, SP-B, and SP-C.

34. The pharmaceutical composition of Claim 10 wherein said mammal is a human.

ADD D1

REMARKS

The Communication from the Examiner stated that the above applications contains 10 different inventions as defined below and required an election of the invention to be examined. The Groups were as follows:

Group I consisting of Claims 1-3, and 21, drawn to a mammal with an SP-D null phenotype and methods of identifying pharmaceutical agents; Group II consisting of Claims 4-6 and 25-28, drawn to methods of treatment comprising introducing SP-D protein; Group III consisting of Claims 4, 5, 7-9, 13-15, and 25-27, drawn to methods of treatment comprising introducing a vector expressing SP-D protein and the vector expressing SP-D protein; Group IV consisting of Claim 10, drawn to a pharmaceutical composition comprising SP-D protein; Group V consisting of Claims 11 and 12, drawn to a biologically active agent that up-regulates expression of SP-D; Group VI consisting of Claim 16, drawn to a biologically active agent that interacts with SP-D; Group VII consisting of Claims 17 and 18, drawn to a method for diagnosing susceptibility to pulmonary disease by identification of a mutation in the SP-D gene by PCR analysis; Group VIII consisting of Claims 17 and 19, drawn to a method for diagnosing susceptibility to pulmonary disease by identification of a mutation in the SP-D gene by hybridization analysis; Group IX consisting of Claims 17 and 20, drawn to a method for diagnosing susceptibility to pulmonary disease by identification of a mutation in the SP-D gene by ELISA; and Group X consisting of Claims 22-24, drawn to a method of purifying SP-D antibodies.

In response to the Restriction Requirement, Applicants elect Group IV, Claims 10, drawn to a pharmaceutical composition comprising SP-D protein. This election is made without traverse. Claims 1-8 and 11-28 have been canceled as drawn to a non-elected invention. Claims 29-36 have been added. Support for Claim 29 can be found in the claims as filed. Support for Claim 30 can be found on page 11, lines 5-6 of the Specification. Support for Claims 31-32 can be found in the Specification page 3, lines 16-19. Support for Claims 34-37 can be found in Claims 4-6 as filed. Upon Allowance of Claim 10, rejoinder of Claims 4-6, 8 and 25-28 would be appropriate because all of these claims are dependent on Claim 10. No new matter has been added herewith.

C nclusion

If any clarification is needed, the Examiner is respectfully invited to contact the undersigned attorney at the telephone number appearing below.

Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: 11 DEC 2000

By: _____

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